

The boundaries of Wisconsin /

THE BOUNDARIES OF WISCONSIN.

BY THE EDITOR.

Wisconsin having been the fifth and last commonwealth formed out of the old Northwest Territory, and obliged to content herself with the remains after the dowries of her four older sisters had been apportioned out of the family estate, an adequate study of her boundaries involves a general historical survey of the division of that Territory into states.

Washington, "first in war, first in peace, and first in the hearts of his countrymen," was first, too, in making suggestions as to the boundary lines of Northwestern states. September 7, 1783, we find him writing to James Duane, then a member of congress from New York, regarding the future of the country beyond the Ohio.¹ After giving some wise suggestions as to the management of both Indians and whites, in the vast region northwest of the river Ohio, he declares that the time is ripe for the blocking out of a state there. Here are the bounds proposed by the veteran surveyor: "From the mouth of the Great Miami river, which empties into the Ohio, to its confluence with the Mad river, thence by a line to the Miami fort and village on the other Miami river, which empties into Lake Erie, and thence by a line to include the settlement of Detroit, would, with Lake Erie to the northward, Pennsylvania to the eastward and the Ohio to the southward, form a government sufficiently extensive to fulfill all the public engagements, and to receive moreover a large population by emigrants." He continues: "Were it not for the purpose of comprehending the settlement of Detroit within the jurisdiction of the new government, a more compact and better shaped district for a state would be, for the line to proceed from the Miami

¹ Sparks's *Life and Writings of Washington*, viii., p. 477.

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452 fort and village along the river of that name, to Lake Erie; leaving in that case the settlement of Detroit, and all the territory north of the rivers Miami and St. Joseph's between the Lakes Erie, St. Clair, Huron, and Michigan, to form hereafter another state equally large, compact, and waterbounded.”

Thus did Washington, with that clear-headedness and far-sightedness which caused him, in practical matters like this, to outrank most Americans of his day, roughly map out the present states of Ohio and Michigan; and, five weeks later, on the 15th of October, 1783, congress adopted this second suggestion almost literally, in establishing a region for colonization north of the Ohio, into which no red man was thereafter to be allowed a foothold-if the law could stop him.¹

1 *Secret Journals of Congress*, i., p. 258. Duane was chairman of the committee reporting these resolutions.

Early in March, 1784, congress instructed a committee of which Thomas Jefferson was chairman, to fashion a plan of government for the entire Northwest,—or, as it was then called, the Western Territory,—which had now become public domain through the surrender of the land claims of those states which had stoutly held that they owned everything west of their coast lines, as far as the Pacific ocean.² To Jefferson is to be given the credit for drafting the report of this committee, which was first taken up by congress on the 19th of April, and adopted on the after some

2 Randall's *Life of Jefferson*, i., p. 397.

453 amendment. The original draft¹ has come down to us in history, famous, among other features, for Jefferson's fantastic proposition to divide the Northwest, on parallels of latitude, into ten states with severely classical names: Sylvania, Micbigania, Assenisipia, Illinoia, Polypotamia, Chersonesus, Metropotamia, Saratoga, Pelisipia and Washington. While congress practically accepted his system of territorial division, his proposed names

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were rejected, and each section was left to choose its own title when it should enter the lists of the union.²

¹ The draught of the committee's report, in the handwriting of Jefferson, may still be seen at Washington, in the archives of the department of state.

² See *ante*, p. 61, for full text of the resolutions, as adopted.

These resolutions of April 23, 1784, were in force until July 13, 1787, when the congress of the confederation, in session at Philadelphia, adopted "an ordinance for the government of the territory of the United States northwest of the river Ohio." What now became familiarly known as the Northwest Territory lay west of Pennsylvania and north and west of the Ohio river; its western limit was the Mississippi river, which had been established by the treaty of Paris, February 10, 1763, as the boundary between the British possessions and the French province of Louisiana, and confirmed as the western boundary of the United States by our treaty with Great Britain, September 3, 1783; the northern limit was the line between British America and the United States. The land embraced in this great tract was, in great part, the Virginia cession, made in 1784; to the north of that lay the strip ceded by Connecticut in 1786 and 1800; further north, the Massachusetts cession of 1785; while the territory north of latitude 43° 43' 12" had been acquired from Great Britain in 1783.¹

¹ See map in McMaster's *Hist. People U. S.*, ii.

Article V. of the ordinance was as follows: "There shall be formed in the said territory not less than three nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession and consent to the same,² shall become fixed and established as follows, to-wit: The western state, in the said territory, shall be bounded by the Mississippi, the Ohio, and the Wabash rivers; a direct line drawn from the Wabash and Post Vincents [Vincennes, Indiana], due north, to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and

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Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: *Provided, however* , And it is further understood and declared, that the boundaries of these three states shall be subject so far to be altered, that, if congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies *north of an east and west line drawn through the southerly bend or extreme of Lake Michigan* . And whenever any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates, into the congress of the United States, on an equal footing with the original states, in all respects whatever.”

2 Which she did in 1788.

In order to give the ordinance an air of stability, it was solemnly provided, in section 14 of the preamble, that: “The following articles shall be considered as articles of 455 compact, between the original states and the people and states in the said territory, and *forever remain unalterable, unless by common consent* .”

Twelve years afterward¹ the congress of the United States, which had succeeded the congress of the confederation, made its first division of the Northwest Territory.² The act provided: “That from and after the fourth day of July next, all that part of the territory of the United States

northwest of the Ohio river which lies to the westward of a line beginning at the Ohio, opposite to the mouth of Kentucky river, and running thence to Fort Recovery [near the present Greenville, Ohio], and thence north until it shall intersect the territorial line between the United States and Canada, shall, for the purposes of temporary government, constitute a separate territory, and be called the Indiana Territory.” The country east of this line was

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still to be called the Northwest Territory, with its seat of government at Chillicothe; while Vincennes was to be the seat of government for Indiana Territory. That portion of the line running from the point on the Ohio, opposite the mouth of the Kentucky, northeastward to Fort Recovery, was designed to be but a temporary boundary, it being one of the lines established between the

1 Act approved May 7, 1800. The ordinance itself had been confirmed by act of congress, approved August 7, 1789.

2 See St. Clair's letter to Harrison, on the division of the Northwest Territory, *St. Clair Papers*, ii, pp. 489, 490.

456 white settlements and the Indians, by the treaty of Greenville, July 30, 1795.

The act of congress approved April 30, 1802, enabling "the people of the eastern division" of the Northwest Territory,—Ohio,—to draft a state constitution, obliged them to take in their northern boundary and accept therefor "an east and west line drawn through the southerly extreme of Lake Michigan," in accordance with the limits prescribed by the original ordinance. In the state constitutional convention, held at Chillicothe in November that year, this line had been acceded to in committee without a murmur, when suddenly it came to the ears of the members that an experienced trapper, then in the village, claimed for Lake Michigan a more southerly head than had been popularly given it. It appears that in the department of state, at Washington, there was a map bearing date 1755, published by Mitchell, which placed the southern bend of Lake Michigan at 42° 20'. This map had been in use by the committee of congress which drafted the ordinance of 1787, and a pencil line was discovered upon it, evidently made by a committee-man, which passed due east from the bend and intersected the international line at a point between the river Raisin and Detroit.¹ The Chillicothe convention had become alarmed at the trapper's report of the incorrectness of Mitchell's map, and made haste to attach a proviso to the boundary article, as follows:

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1 Burnet's *Notes on Northwest Territory* (1847), p. 360. But it is singular that the committee did not use a later and more reliable map than this,—one published in 1778, nine years before the passage of the ordinance,—by Thomas Hutchins. Hutchins placed the southern bend about where it was afterwards proved to be by Talcott's survey—41° 37' 07.9".

“ Provided always, and it is hereby fully understood and declared by this convention ,
That if the southerly bend or extreme of Lake Michigan should extend so far south, that a line drawn due east from it should not intersect Lake Erie, or if it should intersect the said Lake Erie east of the mouth of the Miami river of the lake, then, and in that case, with the assent of the congress of the United States, the northern boundary of this state shall be established 457 by, and extending to, a direct line, running from the southern extremity of Lake Michigan to the most northerly cape of the Miami bay,” etc.

“The eastern division” of the Northwest Territory, now organized under the name of the state of Ohio, was formally admitted as such to the Union, by act approved February 19, 1803; nothing being said in the recognition act relative to the boundary, it was taken for granted by the Ohio people that the proviso was accepted.

On the 11th of January, 1805, an act of congress was approved, erecting the territory of Michigan out of “all that part of the Indiana Territory which lies north of a line drawn east from the southerly bend, or extreme, of Lake Michigan, until it shall intersect Lake Erie, and east of a line drawn from the said southerly bend through the middle of said lake to its northern extremity, and thence due north to the northern boundary of the United States.” In short, the present southern peninsula of Michigan with a southern boundary as established by the ordinance of 1787, and all that portion of the upper peninsula lying east of the meridian of Mackinaw. Congress had admitted Ohio to the Union with a tacit recognition of the northern boundary laid down in her constitutional proviso, yet so little thought had been given to the matter, and geographical knowledge of the West was still so vague, that this circumstance had been overlooked, and Michigan Territory was allowed a southern limit which, though in strict accordance 458 with the ordinance, seriously overlapped the

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territory assigned to Ohio. Thus, in later years, when it became known where the southerly bend of Lake Michigan really was, a serious boundary dispute arose, Michigan claiming the ordinance as a compact which could not be broken by congress without common consent, while Ohio tenaciously clung to the strip of country which the constitution-makers at Chillicothe had secured for her in the eleventh hour. The wedge-shaped strip in dispute averaged six miles in width, across Ohio, embraced some four hundred and sixty-eight square miles, and included the lake-port of Toledo and the mouth of the Maumee river, the possession of which was deemed well worth quarreling over. May 20, 1812, congress passed an act for determining the boundary, but owing to trouble with Great Britain, the lines were not run until 1818, and then not satisfactorily. July 14, 1832, another act of congress for the settlement of the northern limit of Ohio was passed, and as a result of extensive observations by Captain A. Talcott of the United States engineer corps, that officer was able to report in detail, in January, 1834, and again in November, 1835.¹ That report shows that the southern bend of Lake Michigan is in latitude 41° 37' 07.9", while the north cape of Maumee bay is in 41° 44' 02.4".

¹ *Senate Docs*, No. 1, 24th Cong., 1st sess., vol. i., p. 203.

Michigan had begun in 1834 to urge her claims to statehood, insisting on the southern boundary prescribed for the 459 fourth and fifth states by the ordinance; and Virginia, whose consent, as the chief land-giver, had been deemed necessary to the legalizing of that document, was importuned by Governor Mason to intercede in behalf of the peninsula Territory. But, although the officials of the Old Dominion were in accord with the movement, it failed to produce any effect on congress, for the political sympathy of the actual state of Ohio was more important to the dominant party, just then, than the possible good-will of the projected state of Michigan. Without waiting for an enabling act, a convention held at Detroit in May and June, 1835, adopted a state constitution for submission to congress, demanding entry into the Union, "in conformity to the fifth article of the ordinance" of 1787—of course the boundaries sought being those established by the article in question. That summer, there were popular disturbances in the disputed

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territory, and some gunpowder harmlessly wasted. In December, President Jackson laid the matter before congress in a special message. Congress quietly determined to “arbitrate” the quarrel by giving to Ohio the disputed tract, and offering Michigan,¹ by way of partial recompense, the whole of what is to day her upper peninsula. Michigan did not want the supposedly barren and worthless country to her northwest, protested long and loud against what she deemed to be an outrage, declared that she had no community of interest with the north peninsula, and was separated from it by insurmountable natural barriers for one-half of the year, while it rightfully belonged to the fifth state, to be formed out of the Northwest Territory. But congress persisted in making this settlement of the quarrel one of the conditions precedent to the admission of Michigan into the Union. In September, 1836, a state convention, called for the sole purpose of deciding the question, rejected the proposition on the ground that congress had no right to annex such a condition, according to the terms of the ordinance; a second convention, however, approved of it on the 15th of December following, and congress at

¹ Act approved June 15, 1836.

460 once accepted this decision as final.¹ Thus Michigan came into the sisterhood of states, January 26, 1837, with the territorial limits which she possesses to-day.²

¹ Hough's *Amer. Const.*, i., p. 663.

² The arguments on the Ohio-Michigan claims will be found at length in *Senate Docs*, No. 211, vol. iii., 1835–36, and *Reports of Coms.*, No. 380, vol. ii., 1835–36.

The erection of Michigan Territory in 1805 had left Indiana Territory with the Mississippi river as its western border, the Ohio as its southern, the international boundary and the south line of Michigan as its northern, while its eastern limits were the west line of Ohio, the middle of Lake Michigan and the meridian of Mackinaw. This included the present states of Indiana, Illinois, Wisconsin and the greater part of the Michigan upper peninsula:

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The next division was ordained by act of congress, approved February 3, 1809, when that portion of Indiana Territory lying west of the lower Wabash river and the meridian of Vincennes was erected into the Territory of Illinois. Indiana was thus left with her present boundaries, except that on the south side she owned a funnel-shaped strip of water and of land just west of the middle of Lake Michigan, between the Vincennes meridian and the then western boundary of Michigan Territory,—what is now, roughly speaking, the county of Door, in Wisconsin, together with the counties of Delta, Alger and 461 Schoolcraft and the greater part of Chippewa and Mackinac, in Michigan.

When Indiana was admitted to the Union, by act approved April 19, 1816, her northern boundary was established by congress on a line running due east of a point in the middle of Lake Michigan ten miles north of the southern extreme of the lake. This was a flagrant violation of the great ordinance, but the excuse was that Indiana must be given a share of the lake coast, and as there were then no important harbors or towns involved, Michigan never made any serious objection to this particular encroachment on her territory.

The contraction of the northern bounds of Indiana, however, left the before-mentioned strip of water in Lake Michigan and the generous belt of peninsula country to the north, wholly out in the cold. It was literally “No Man's Land.” States and territories had been formed around it, but these

semi-insulated sections of ore and pine lands were claimed by none, such was the prevalent ignorance of the actual condition, situation and extent of the public domain in the far Northwest.

The act of April 18, 1818, enabling Illinois to become a state, cut down her territory to its present limits, and gave to Michigan “all that part of the territory of the United States lying north of the state of Indiana, and which was included in the former Indiana Territory, together with that part of the Illinois Territory which is situated north of and not included within the boundaries prescribed by this act.” Thus was what we may 462 call No Man's

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Land, and all of the Northwest Territory west of it, taken in “for temporary purposes only” under the wing of Michigan Territory, which now embraced all the country between the Mississippi river and Lakes Erie, St. Clair and Huron, and north of Ohio, Indiana and Illinois. The northern boundary of Illinois was fixed at 42° 30′, which is over sixty-one miles north of the southern bend of Lake Michigan, the southern boundary prescribed by the ordinance for the fourth and fifth states to be formed out of the old Northwest Territory. Thus were the express terms of the ordinance, which had been declared to be “forever unalterable except by common consent,” again violated, without so much as saying “by your leave” to the people west of Lake Michigan who lived north of 42° 30′. What was afterwards Wisconsin was thereby robbed of eight thousand five hundred square miles of rich agricultural and mining country and numerous lake-ports, through the shrewd manipulation of Nathaniel Pope, Illinois's delegate in congress at that time. Pope speciously argued that Illinois must become intimately connected with the growing commerce of the northern lakes, or else she would be led, from her commercial relations upon the great rivers trending to the south, to join a southern confederacy in case the Union were disrupted.¹

¹ *Annals of Congress*, 1818, vol. ii., p. 1677; Ford's *Hist. of Ill.*, p. 22; Davidson and Struve's *Hist. of Ill.*, p. 295.

An act of congress approved June 28, 1834, added to the Territory of Michigan, “for temporary purposes,” the lands lying north of the state of Missouri and between the Mississippi river on the east and the Missouri and White Earth² rivers on the west, which had been acquired from France as a part of the Louisiana purchase, in 1803.³ Michigan

² A small northern tributary of the Missouri, having its source some thirty miles south of the international boundary; it empties into the Missouri near the western boundary of Mountraille county, Dakota, about eighty-five miles west of the meridian of Bismarck.

³ The clause of this act relating to area is as follows: “All that part of the territory of the United States bounded on the east by the Mississippi river, on the south by the state of

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Missouri and a line drawn due west from the northwest corner of said state [then on the meridian of Kansas City] to the Missouri river; on the southwest and west by the Missouri river and the White Earth river, falling into the same; and on the north by the northern boundary of the United States, shall be, and hereby is, for the purpose of temporary government, attached to and made part of the Territory of Michigan.”

463 Territory now extended, therefore, from Detroit westward to eighty-five miles northwest of the site of the present city of Bismarck, Dakota.

The people west of Lake Michigan had long been desirous of having a territorial government of their own. The seat of government of Michigan Territory was at Detroit, six hundred miles from the centre of settlement west of the lake, and nearly inaccessible therefrom during one-half of the year; the laws of Michigan were practically dead-letters among them; the civil machinery, this side of the lake, was chiefly conspicuous for its absence, and there were commercial as well as sectional and political jealousies between the people on either side of the great inland sea. As early as 1834, Judge James Duane Dory had interested Senator Thomas H. Benton in a scheme to get a bill through congress erecting “the Territory of Chippewau.” The bill¹ was drawn

by Judge Dory and forwarded to Senator Benton in November of that year, together with a petition for its passage signed by the inhabitants of the proposed Territory. It is interesting to note the ideas prevalent among them at that time concerning the proper limits of what is now Wisconsin. The boundaries sought by the Dory bill, were:

1 Dory MSS., in the possession of the Society.

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“All that part of the Michigan Territory included within the following boundaries, that is to say: On the south by the northern boundary line of the state of Illinois, crossing the Mississippi river at the head of Rock Island, and by the northern boundary line of the state of Missouri; on the west by the Missouri river; on the north by the boundary line of the

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United States to the southern extremity of Drummond's island at the mouth of the river St. Mary, and thence by a line running from said island to the southern extremity of Bols Blanc island in Lake Huron, thence by a line equally distant from the island and main land to the centre of the straits between Lakes Michigan and Huron, and thence up the middle of the said straits and Lake Michigan to the northeastern corner of the state of Illinois."

The matter dragged along for some time without action, although Judge Dory persistently wrote letters explanatory of the situation to numerous influential congressmen. In 1827, we find the judge willing to call the proposed new Territory "Wiskonsin," in honor of its principal river. In February, 1828, the committee on territories in the house was committed to its favor, but it received a serious setback from a memorial to congress, sent in shortly after by the people of Detroit, who strenuously objected to giving up to the proposed new territory that portion of their upper peninsula which was east of the Mackinaw meridian,¹ with

which the memorialists showed they were having active commercial relations, and to which they were closely allied, socially and politically. In 1830, the effort

¹ *The Michigan Herald*, February, 1828.

465 was renewed by Judge Doty in a bill to establish the Territory of Huron, with the same boundaries as those prescribed for Chippewau.¹ In 1834, after several sessions of lobbying, a substitute was offered, entitled "A bill establishing the territorial government of Wisconsin," with boundaries the same as before, except that the country to the east of the Mackinaw meridian was not now claimed, a committee of the house of representatives having reported in 1832 that "the due line north from Mackinaw should be retained as more in consonance with the ordinance of 1787."² The bill hung fire on account of the Ohio-Michigan dispute, with the result that, as before mentioned, Wisconsin, the fifth and last division in the Northwest Territory, was 30

¹ In Washburne's *The Edwards Papers* (pp. 439, 440) there is a letter from Hooper Warren, editor of *The Galena Gazette*, to Gov. Ninian Edwards, of Illinois, dated

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Galena, October 6, 1829, in which he thus refers to letters written by Judge Doty to that paper, on the boundary question: "I hope you have read the numbers of our Green Bay correspondent. He is Judge Doty. You are among others to whom he requested us to send the papers containing his essays. *I want you to answer them.* You will see that the whole of his arguments respecting Ohio and Indiana do not apply to Illinois, as our boundary has the assent of Congress, while that of the former states has not. I will further suggest to you that the ordinance does not say that the east and west line from the southerly bend of Lake Michigan *shall be the boundary*; but that congress *may* form one or more states *north* of that line—and would not the southern boundary of the state of Wisconsin at 42° 30' be in accordance with that *injunction* or *permission*? Farther, Illinois has a *natural* right to a port on Lake Michigan, which the old line would cut her off from. This subject is of more importance than you may think it is. A large portion, perhaps a majority, of the people here, are of Judge Doty's opinion, and are wishing and expecting the old line to be established. I have been informed that Judge D. has said that should a case of jurisdiction come before him, he would decide against us. The contention in Michigan proper is for *ten* miles only, which Ohio and Indiana have got *north* of the 'east and west line.'"

See *Wis. Hist. Colls.*, x., pp. 236, 237, for instance of confusion existing, at this time, as to the location of the Wisconsin-Illinois boundary—the election commissioners of Jo Daviess county, Illinois, opening a poll at Platteville, Wisconsin, E.B. Washburne says, in connection with this fact: "The boundary line between Illinois and Michigan Territory was not officially defined until 1830."—E d.

2 Governor Doty's message, December 4, 1843.

466 stripped of the upper peninsula altogether. The land line decided upon, between Wisconsin and Michigan—connecting the Montreal and Menomonee rivers—appears to have been the suggestion, in 1934, of Senator Preston of South Carolina.¹ An old map of Wisconsin, then in vogue, erroneously showed a continuous water-course between those two points, thus making an island of the northern peninsula.

1 *Wis. Hist. Coils.*, iv., p. 352.

April 20, 1836, the bill establishing the new Territory was approved, Wisconsin being therein assigned these limits: "Bounded on the east by a line drawn from the northeast corner of the state of Illinois, through the middle of Lake Michigan, to a point in the middle of said lake and opposite the main channel of Green bay, and through said channel and Green bay to the mouth of the Menomonee river; thence through the middle of the main channel of said river to that head of said river nearest to the Lake of the Desert; thence in a direct line to the middle of said lake; thence through the middle of the main channel of the Montreal river to its mouth; thence with a direct line across Lake Superior to where the territorial line of the United States last

touches said lake northwest; thence on the north with the said territorial line to the White Earth river; on the west by a line from the said boundary line following down the middle of the main channel of White Earth river to the Missouri river, and down the middle of the main channel of the Missouri river to a point due west from the northwest corner of the state of Missouri; and on the south, from said point, due east to the northeast corner of the state 467 of Missouri; and thence with the boundaries of the States of Missouri and Illinois, as already fixed by acts of congress."

It was Hobson's choice, with both Wisconsin and Michigan. Congress assumed the right to govern and divide the territory in the Northwest to suit itself, regardless of the solemn compact of 1787, and there seemed nothing to do but submit. The future proved that Michigan had been given more than an equivalent in the great northern peninsula, for the narrow belt of country along the Ohio border, and had no reason to grumble, while Wisconsin lost in the transaction a tract of territory which belongs to her geographically, and which had always been designed for her in the preliminary deliberations concerning the political division of the Northwest. But while the consent of Michigan had been formally

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asked and reluctantly given to this violation of the great ordinance, that of Wisconsin was never sought for, either as to her northeastern or southern boundary.

By act of June 12, 1838, congress still further contracted the limits of Wisconsin by creating from its trans-Mississippi tract¹ the Territory of Iowa. This, however, was in accordance with the original design when the country beyond the Mississippi was attached to Michigan Territory for purposes of temporary government, so no objection was entertained to this arrangement on the part of Wisconsin. The establishment of Iowa had reduced Wisconsin to her present limits, except that she still held, as her western

¹ The language of the clause is as follows: "All that part of the present Territory of Wisconsin which lies west of the Mississippi river and west of the line drawn due north from the headwaters or sources of the Mississippi to the territorial line" [international boundary]. By a memorial to congress of the Wisconsin Territorial legislature, approved January 14, 1841 (*Senate Docs.*, No. 171, 26th Cong., 2d seas., vol. iv.), it will be seen that under this act of June 12, 1838, there was some ambiguity as to the western boundary description; the Wisconsin memorialists held that; "the effect of the act confined the western boundary-line of Wisconsin to the edge of the waters of the Mississippi river, and took away the jurisdiction of Wisconsin over any part or portion of the Mississippi, either concurrent or otherwise." Congress finally changed the phraseology, so that Wisconsin's western boundary became "the center of the main channel of that river."

468 boundary, the Mississippi river to its source, and a line drawn due north therefrom to the international boundary.

In this condition Wisconsin remained until the act of congress approved August 6, 1846, enabling her people to form a state constitution. Settlements had now been established along the upper Mississippi and in the St. Croix valley, far removed from, and having neither social nor commercial interests in common with, the bulk of settlement in southern and eastern Wisconsin. The northwestern settlers did not wish to be permanently connected with Wisconsin, but did desire to cast their fortunes with a new Territory, to be

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called Minnesota, which was to be formed west of the Mississippi. They therefore brought strong influences to bear in congress, and the enabling act in question gave to Wisconsin practically the same northwestern line that she has to-day—from the first rapids of the St. Louis river due south to the St. Croix river and thence to the Mississippi. This cut off an area of twenty-six thousand square miles, with the city of St. Paul included, from the Badger commonwealth and assigned it to Minnesota. There was a sharp fight over the matter, both in congress and in the Wisconsin constitutional conventions of 1846 and 1847–48, with the result that the St. Croix people won, and Wisconsin was admitted into the Union, by act approved May 29,

1848, with her present limits: shorn on the south by Illinois, on the northeast by Michigan and on the northwest by Minnesota.

In 1837, Wisconsin Territory had a diplomatic flurry with Missouri regarding the southern bounds of her trans-Mississippi tract,¹ but as that country was merely attached to Wisconsin for temporary purposes and was afterwards absorbed by Iowa, the particulars of the dispute are not now pertinent. Neither is the animated disturbance created by the Wisconsin legislature in 1843–44 over the terms of the international boundary treaty of 1842, of importance at this day; for the strip of country northwest of Lake Superior, which Wisconsin claimed had been wrongfully encroached upon to the extent of ten thousand square miles by Great Britain, became the property of Minnesota, who fell heir to the international dispute when Wisconsin became a state.

¹ For details, see message of Governor Dodge, November 7, 1837, *House Jour, Wis. Terr. Legis.*

² For details, see *Council Jour., Wis. Terr. Legis.*, 1843 and 1844.

We will now, at the risk of occasional repetition of facts already stated in this introduction, follow the fortunes, in some detail, of the northeastern, northwestern and southern boundaries of the Badger state, each of which has an interesting and instructive history.

THE NORTHEASTERN BOUNDARY.

The upper peninsula of Michigan is three hundred and eighteen miles in length from east to west, and varies from thirty to one hundred and sixty-four miles in width from north to south. In its rugged hills to the north and west there are practically inexhaustible stores of copper and iron, while in the eastern counties agriculture is successfully carried on; it commands the straits of Mackinaw and the outlets of Lakes Superior and Michigan, while numerous harbors line its coasts, and the fisheries off its shores are a never-failing source of revenue. As early as 1660 the Jesuits discovered copper mines upon its northwest coast, and established the fact that the natives had long before had workings there. In 1771 an English mining company established a plant on Ontonagon river, but was unsuccessful, 470 and it was not until 1845 that the first profitable operations were undertaken; while in the same year, iron mines were developed in the neighborhood. During the greater period of the controversy over the possession of this tract, therefore, its value was practically unknown, although frequently hinted at. Wisconsin's chief desire appears to have been its retention simply as a country rightfully belonging to her, with but little foresight of the great extractive industries to be developed there; while Michigan appears, at first, to have looked upon the greater portion of her acquisition with something akin to contempt: Mackinaw and the Sault Ste. Marie, however, had so long been in close trading and social relationship with Detroit, that the country east of the Mackinaw meridian was from the first tenaciously clung to.

At a meeting of the citizens of Detroit. held on the 18th of February, 1828, a memorial to congress was adopted, protesting against that clause in the Doty bill for erecting the territory of Chippewau—the measure had been favorably reported by the house committee

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on territories—which included in the boundaries of the proposed territory the whole of the northern peninsula. The memorial contained this sentence:

“The views of your memorialists as to the proper boundaries of the Territory of Michigan have already been approved and sanctioned by the congress of the Union. By an act, entitled ‘An act to divide the Indiana Territory into two separate governments,’ approved January 11, 1805, a line drawn from the southerly bend of Lake Michigan, through the middle of said lake, to its northern extremity, and thence due north to the northern boundary of the United States, was fixed as the western boundary of the Michigan Territory. This your memorialists consider the correct boundary, as designated by the geographical aspect and commercial relations of the country.”

In 1830 the Chippewau bill had, after varied experiences in congress, developed into a bill for the establishment of the Territory of Huron, with the entire northern peninsula still included in its prescribed boundaries, the house committee on territories having each year favored such limits 471 on geographical considerations alone. This brought out from Governor Case of Michigan, an expostulatory message to his territorial council, dated January 5, 1831, in which he said:

“If we have any security for the political privileges we enjoy or expect to enjoy, we have the same security, and that is, the faith of the United States, for the integrity of the territorial boundaries established by that act [ordinance of 1787]. A line drawn through the middle of Lake Michigan to its northern extreme, and thence due north to Lake Superior, is our western boundary. * * * To the country west of that line we have no claim.”

In 1832 the house committee on territories reported in favor of naming the proposed Territory Wisconsin, and of changing its northeast boundary line to the Mackinaw meridian, “the retention of which is more in consonance with the ordinance of 1787.”

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On the 7th of January, 1833, the legislative council of Michigan addressed a memorial to congress, insisting on the right of that Territory to the Mackinaw line, as recommended by the committee.

The Michigan council adopted another memorial to congress, December 12, 1834, formally praying for the erection of the Territory of Wisconsin out of that portion of Michigan Territory "lying west of a line drawn through the middle of Lake Michigan to the northern extremity [Mackinaw] and thence north to the boundary line of the United States."¹

¹ The memorialists estimated that in the country between the Mississippi and Missouri rivers there were, at that time, from five thousand to eight thousand souls, and that in the country between Lake Michigan and the Mississippi there were from twelve thousand to fifteen thousand souls.

December 11, 1834, a bill to establish the northern boundary of Ohio was referred to the judiciary committee of the United States senate, of which William C. Preston of South Carolina was a member. Both Ohio and Michigan being represented before the committee by counsel, elaborate arguments were made on the proper interpretation of the fifth article of the ordinance of 1787, particularly as to the 472 clause establishing a line running due east and west from the southern bend of Lake Michigan, as the southern boundary of the fourth and fifth states to be formed out of the Northwest Territory. It was incidentally argued that as Michigan was to be the fourth state to be thus erected, the fifth state, Wisconsin, when it came to be established, should embrace all that portion of Michigan Territory lying west of the meridian of Mackinaw and the middle of Lake Michigan.¹ At the conclusion of the argument, Mr. Preston asked how much territory lay west of Lake Michigan. The reply was, that there was probably one hundred thousand square miles, although it had not yet been surveyed. Mr. Preston expressed the opinion that this was altogether too large a tract for one state, and produced a map which was similar to one drawn by L. Judson, and in 1838 published "by order of the legislative assembly of

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Wisconsin.” This map was supposed to be the most accurate extant, but it erred greatly in many important particulars. It represented the Montreal and Menomonee rivers as meeting in Lake Vieux Desert, thus making an island out of the northern peninsula. Mr. Preston now drew a finger along this alleged river highway between Green bay and Lake Superior and remarked that he “thought that would be a fair division of the country.”

1 *Wis. Hist. Colls.*, iv., p. 352.

Delegate Lucius Lyon of Michigan protested against this, saying that his people “did not wish to so extend their state; that for a great part of the year nature had separated the upper and lower peninsulas by impassable barriers, and that there could never be any identity of interest or community of feeling between them.”²

2 *Id.*, p. 353.

The view taken by Senator Preston, however, appears to have been regarded by a majority of his fellow committeemen as a sound one. At all events, it was just then very desirable, politically, to conciliate Ohio and yet keep good friends with Michigan, who would soon become a member of the Union. So the territorial claims of Ohio were favorably reported upon by the committee, and it was informally agreed among the members that Michigan should have the northern peninsula. To be sure, Michigan did not want it, but it was prophesied that she would eventually be satisfied with the enforced exchange.

The same Ohio boundary bill came again before the senate judiciary committee, the following session; for though the senate had passed it the previous year, the house had not acted. On the 1st of March. 1836, the committee once more reported in favor of Ohio, Mr. Preston having reiterated his views regarding the Michigan-Wisconsin boundary line. The committee, in its report, after disposing of the question actually before it, went outside of its topic and submitted this suggestion to the senate:¹

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1 *Senate Docs.*, No. 211, 24th Cong., 1st sess., vol. iii.; also *Reports of Coms.*, No. 380, vol. ii., 1835–36.

“If Michigan be not sufficiently large, it is easy to remedy that objection; and if the ordinance [of 1787] is to remain unchanged— *as it must, unless the state of Virginia will consent to an alteration of it*—so immense a tract of country as Wisconsin presents ought not to be formed into a single state. Whatever disadvantage may arise from connecting with Michigan a portion of country west or north of the lake, is, we think, not to be weighed with the inconvenience of subjecting, forever after, to the jurisdiction of a single state, all the inhabitants who may reside in the region west and north of the lake.”

About this time the state constitution adopted by the people of Michigan in 1835 was, together with a message from the president on the Ohio-Michigan boundary dispute, referred to a select senate committee, of which Thomas H. Benton was chairman and John M. Clayton, chairman of the judiciary committee, a member. This committee reported March 22, 1836, a bill to establish the northern boundary of Ohio as Ohio wanted it, and also a bill to erect Wisconsin Territory. This latter measure laid down the northeast boundary line of the new Territory as Mr. Preston had suggested and practically as it exists to-day.

When the Wisconsin bill was before the house, in committee of the whole, Elias Howell of Ohio offered an amendment 474 to make the Wisconsin-Michigan boundary a line running “from the middle of Green bay to the head of Chocolate river, thence down said river to Lake Superior, thence due north to the territorial line.” Had this amendment been adopted, Wisconsin would have gained the greater part of the upper peninsula. But it was defeated, and the senate bill left intact. the act being approved as it came from committee, April 20, 1836.

The charge was freely made at the time that the northern peninsula was given to Michigan as a compensation for the loss on her southern border. But Senator (afterwards President)

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James Buchanan, a member of the senate judiciary committee, made a speech¹ in which he vehemently denied that Michigan had favored this barter, and claimed that it was made “solely upon considerations of public policy.” He pointed out that the legislature of Michigan thus expostulated with the senate committee:

1 Appendix to *Cong. Globe*, 24th Cong., 1st sess., p. 308.

“Its limits [those of Michigan] are fixed and immutable, without the consent of the people. They have never claimed anything beyond those limits; they have never transcended them; they have, in all their proceedings, adhered to them with punctilious fidelity. A due regard to the ‘natural boundaries’ and to the rights, political and territorial, of another people, whom she hopes at an early day to hail as another accession to this great confederacy of states, would forbid her to accept any acquisition of territory north and west of her, as a consideration for the serious loss alluded to.”

To be sure, it was not a bargain. We have ample evidence of that, in the repeated official protests of Michigan at this unwarranted disposition of territory. But the politicians in congress were right when they predicted that Michigan would ultimately become more than reconciled to the transfer and tenaciously cling to her Lake Superior country as perhaps her richest possession. Though not a bargain, it was a magnificent recompense.²

2 Michigan appears to have been well rewarded for her few lost townships on the Ohio border. She obtained, in addition to the northern peninsula, “land for the erection of her public buildings; all the salt springs in the state, with six sections of land contiguous to each, in addition to the school and university lands, and five per cent. of the net proceeds of the sales of all public lands in the state— and also by giving to her \$382,335.31 of the money required by the act of June 23, 1888, to be deposited with the states.”— See appendix to *Council Jour., Wis. Terr. Legis.*, 1844, p. 9.

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By act of congress approved June 12, 1838, the surveyor-general of the United States was required to cause the boundary between Wisconsin and Michigan to be "surveyed, marked and designated," and the sum of \$3,000 was appropriated for the purpose. Commissioner Whitcomb of the general land office deeming the appropriation insufficient, nothing was done under this act. July 20, 1840, congress re-appropriated the sum, and gave the work in charge of the secretary of war. Captain Thomas Jefferson Cram, of the topographical engineers, was assigned the task, and in spite of the short season remaining to him after the passage of the act, made considerable progress in penetrating the absolute wilderness through which much of the boundary ran. Captain Cram made his report to the topographical bureau in December, 1840.¹ His reconnoissance was chiefly of the wild country between the headwaters of the Montreal and Menomonee rivers.

1 *Senate Docs.*, No. 151, 26th Cong., 2nd sess., vol. iv.

It will be remembered that the act erecting Wisconsin Territory thus described the northeast boundary: "Through the middle of Lake Michigan to a point in the middle of said lake and opposite the main channel of Green bay, and through said channel and Green bay to the mouth of the Menomonie river; thence through the middle of the main channel of said river to that head of said river nearest to the Lake of the Desert; thence in a direct line to the middle of said lake; thence through the middle of the main channel of Montreal river to its mouth; thence with a direct line across Lake Superior to where the territorial line of the United States last touches said lake northwest."

Capt. Cram points out in his report that, from a reading of this description, it would be inferred:

"1st. That the Lake of the Desert was supposed to be a headwater of, and to discharge itself into, Montreal river.

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“2d. That somewhere between Lake Superior and Green bay there was a known lake bearing the name of the ‘Lake of the Desert.’

“3d. That all of the headwaters discharging themselves into the Menomonee river, one would be found nearer the said Lake of the Desert than any other.

“4th. That the nearest head of the Menomonee to the said lake would be found to be a branch of the Menomonee, and not a lake.”

But it was ascertained by the survey that Lac Vieux Desert, wrongfully called Lake of the Desert,¹ is really the headwater of the Wisconsin river, and has no connection whatever either with the Menomonee or Montreal rivers; not even being in a line between their headwaters, but to a considerable distance northeast. “The nearest distance between the lake and the Montreal river, which takes its rise in an extensive swamp, is such that an Indian requires eight days, without a pack, to pass from one to the other. The Montreal river was found to have a course different from what was supposed; so have the courses of the Menomonee and of its principal branches been equally mistaken and misrepresented.”

¹ Capt. Cram says: “The country in the vicinity of this beautiful lake is called, in Chippewa language, Katakitekton, and the lake bears the same name. On South island there is an old [Indian] potato-planting ground; hence the appellation of ‘Vieux: Desert,’ which, in mongrel French, means ‘old planting-ground.’ There is mere reason for calling it ‘Lac Vieux Desert,’ than for the appellation ‘Lake of the Desert.’ It is much to be regretted that the Indian names of rivers, lakes and places are so frequently changed without any reason, and in most cases for the worse.” Both this report and that of the following year abound in excellent descriptions of the wilderness and its inhabitants.

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On a map drawn by James Duane Doty in 1820, to accompany a report on northern Wisconsin made to Governor Lewis Cass, Lake Vieux Desert is styled “Old Plantation lake.”— (*Wis. Hist. Colls.*, vii., p. 204)

Captain Cram concluded that it would be exceedingly difficult to run a line between the headwaters of the Montreal and Menomonee; utterly impossible, in fact, to exactly follow the official description. He said that it would involve elaborate and expensive surveys to determine “the middle” 477 of so crooked a lake as the Vieux Desert; he also pointed out that both the Montreal and Menomonee are filled with islands, many of them of great size, while in both rivers there are numerous channels of equal capacity, and suggested that the official description be so changed as to give onehalf of these islands to Michigan and the rest to Wisconsin, to specify a particular channel in each of the rivers, and also to establish some point in the lake that could be easily determined—for instance, the highest point of Middle island; he likewise suggested that some particular channel in Green bay should be named—for, owing to the islands in that body of water, there are several ship channels, none of which can be properly designated as “the most usual.” In short, he made it clear that a more specific description was essential, or there might be never-ending contention over the matter. While asking for a sufficient appropriation to properly complete his work the following season, Captain Cram recommended that the description of the boundary be amended so as to read as follows, the object being to equitably divide the islands and to allow of a line that “could be run without any material difficulty:”

“To the mouth of Montreal river (of Lake Superior); thence (in ascending) through the center of the extreme right-hand channel that the said Montreal river may be found to have, as far up the same as where the said channel shall be found to be intersected by a direct line drawn from the highest point of ground on Middle island of Lake Vieux Desert north,—degrees west; thence (from the said intersection), along the just-described direct line, to the said point of Middle island; thence (from the said point of Middle island) in a direct line to the center of the channel of the outlet of Lac Brulé;¹ thence following the

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center of the extreme left-hand channel of Brulé river (Wesacotasepe) down to the middle of the channel of the Menomonee river; thence following the center of the extreme right-hand channel of the Menomonee river, down the same, to the head of Pemene falls; thence following the center of the extreme left-hand

1 The headwater of the Brulé river, which is "that head of the Menomonee river nearest to the Lake of the Desert."

478 channel of the Menomonee river, down to the center of the best ship-channel of the Green bay of Lake Michigan; thence following the center of the best ship-channel of Green bay, to the middle of Lake Michigan."

In March, 1841, another reconnoissance was ordered by congress,¹ and Captain Cram was sent out to complete his task, which he did amid great hardships, his exploration lasting four months.² On the 24th of January, 1842, the senate made a request for his report, which was made to the topographical bureau February 10.³ He showed that there did "not exist in nature any continuous natural boundary—as had been supposed in the act of congress defining this boundary—between the headwaters of the Menomonee and Montreal rivers;" as for Lake Vieux Desert, it was found to be many miles northeast of a direct line drawn between the headwaters of the two rivers, so that the lake would have to be made the apex of an obtuse angle, if it were persisted in as a point in the boundary; he therefore argued strongly in favor of a straight line between Lake Brulé (the head proper of the Menomonee) and the head of the Montreal. This straight line, he said, would be sixty miles in length, while the indirect line, by way of Lake Vieux Desert, would be 100 miles and 2,199 feet. The report was accompanied by an excellent detailed map of the survey, which is still recognized as official authority.⁴

1 As the result of a joint resolution of the Michigan legislature, making a request therefor, approved February 2, 1841.—(*Senate Docs.*, No. 186, 26th Cong., 2nd sess., vol. iv.)

2 *Wis. Hist. Colls.*, iv.. p. 193.

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3 *Senate Docs.*, No. 170, 27th Cong., 2nd sess., vol. iii.

4 For strictures on Captain Cram's work, see *Wis. Hist. Colls.*, iv., pp. 360–363.

On the 16th of February, 1842, six days after the submission of Captain Cram's second report, but before it had been received by congress, Governor Doty sent in a message to the legislative assembly of "Wiskonsan" Territory,⁵ upon the boundary line in question. He said:

⁵ Governor Doty endeavored, long and hard, to secure the adoption of this ungainly orthography. The message will be found in *House Docs.* No. 147, 27th Cong., 2nd sess., vol. iii. It was transmitted to congress by resolution of the Wisconsin legislature approved February 18, 1842, and received in the house March 19.

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"It is ascertained that a part of the western boundary of the state of Michigan, as prescribed by the act of congress of the 15th of June, 1836, is an impracticable line, there being no natural boundary as therein described. The Lake of the Desert does not discharge its waters into the Montreal river. It having, therefore, become necessary to designate a new line, I avail myself of the occasion to present the subject to the notice of the assembly, that such measures as are proper may be adopted to procure the recognition by the government of the United States of the boundary which was established between Michigan and Wiskonsan in the year 1805. * * * It is manifest from the provisions of the ordinance [of 1787] that they [the people on the northern peninsula living west of the Mackinaw meridian] belong to the fifth state to be formed in the Northwest Territory, and that Michigan, as a 'state' in the Union, has no jurisdiction over them. This was the doctrine of Michigan until she was admitted, and I think it was correct."

The governor's message was referred to the committee on territorial affairs, which reported resolutions in accordance with the position therein maintained, and the territorial delegate,

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Henry Dodge, was requested to use his influence in the reestablishment of the original boundary. The resolutions were promptly adopted, though Mr. Dodge appears to have been unable to accomplish anything in the matter, at that session. But Governor Dory returned to the charge,. and in his message of December 4, 1843, again awakened the attention of the legislature to the subject, and in plain terms “demanded” that “the birthright of the state” should be at once vouchsafed her by congress. The message was referred to a select council committee, of which Moses M. Strong was chairman, and Messrs. David Newland and Edward V. Whiten (afterwards chief-justice) were lay members. The committee—which had been instructed to report “whether the boundaries for the fifth state, by the ordinance of 1787, have been infringed by the government of the United States and in what manner”—submitted a report on the 18th of December.¹ It found that the boundaries had been infringed, on many sides, as charged, among the specifications being:

1 *Council Jour., Wis. Terr. Legis.*, 1844, document D.

“Second. By the act of June 15, 1836, for the admission of Michigan into the Union, by which the Montreal and the Menomonee rivers are declared to be the northeastern boundary of Wisconsin.”

In reference to this charge the committee asserted, as Governor Dory had, that there is not a natural boundary between the two rivers. “Such a boundary [as enacted] violates, if not the words, at least the spirit and intent of the ordinance.” Further: “If the country [the northern peninsula] should become inhabited, as it now is to some extent, and as it is reasonable to suppose it soon will be to a much greater, the convenience of its inhabitants would be much better consulted by uniting them with Wisconsin than with Michigan. Their facilities of intercourse with Wisconsin would be much greater, and they would enjoy their civil and political rights to a much greater extent by being united with a people to whom at all times they would be contiguous, than by being connected with those from whom all communication would be absolutely cut off nearly half the year.”

The committee concludes that the northeast boundary is still open, as that which congress “attempted to establish violates the spirit, intent and fair construction of the ordinance,” and “should not be established as the permanent boundary between the two states.”

The committee, however, confesses itself of the opinion that although Michigan had the northern peninsula thrust upon her against her solemn protests, “it is not in the nature of political communities to surrender any rights, especially rights of territory, to which any circumstances have given them the color of claim, and it is not reasonable to expect that Michigan will voluntarily surrender to us any claims she may have to territory west of Lake Michigan derived by virtue of the act admitting her to the Union.”

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The committee provided a way out of the difficulty they had raised, by suggesting that congress be importuned to compensate Wisconsin, “in some measure.” for the loss of the upper peninsula, as Michigan had been compensated for the loss of the strip on her southern border. The compensation which the committeemen thought Wisconsin might accept, should come in the shape of: (1) The government construction of a railroad between Lake Michigan and the Mississippi; (2) The improvement of the Fox and Wisconsin rivers, so as to make a national waterway between the great lakes and the great river; (3) The connection, by canal, of the Fox and Rock rivers; (4) The construction of harbors on the west shore of Lake Michigan, at Southport [Kenosha], Racine, Milwaukee, Sauk Harbor, Sheboygan and Manitowoc.

The report of this committee, and the address to congress by which it was accompanied, are interesting reading, in view of subsequent events. Probably no state ever adopted a more belligerent tone towards congress than did Wisconsin in these singular documents, which read more like emanations from a South Carolina legislature than the sober judgment of a community which was among the foremost, in later days, in putting down by force of arms the rebellion which was the fruit of the state-rights doctrine carried to its logical sequence. The committee, after expressing its disposition to believe that congress

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“would hasten to make all the atonement in its power, and that they would guaranty the construction by the general government of the improvements before mentioned, or such reasonable equivalents as might be mutually agreed upon by the general government and Wisconsin,” adopts this lofty and threatening strain:

“Should we be disappointed in these reasonable expectations, we shall continue to occupy the same position that we do now, with this advantage, that we shall have shown to the world that we exhibited to the United States government a disposition in the first instance amicably to arrange the difficulties in which we are involved by their action, and we shall then have but to satisfy civilized communities that we 31 482 are right in our claims and pretensions, to secure their sympathy and kind feeling, if not kind action: and we could then safely entrench ourselves behind the ordinance of 1787, fortified by the doctrine, well understood in this country, that all political communities have the right to govern themselves in their own way, within their lawful boundaries, and take for ourselves and our state the boundaries fixed by that ordinance, form our state constitution, which should be republican, apply for admission into the Union with those boundaries, and if refused, so that we could not be a state in the Union, we would be a *state out of the Union* , and possess, exercise and enjoy all the rights, privileges and powers of the *sovereign, independent state of Wisconsin* , and if difficulties must ensue, we could appeal with confidence to the Great Umpire of nations to adjust them.”¹

¹ The italics are those of the original.

The accompanying address to congress is written in the same defiant spirit. “The unauthorized action of the general government” is sharply alluded to, in what the memorialists call “plain and candid” words. “It is confidently hoped that congress will guarantee to Wisconsin these improvements in return for her loss of border, * * * that thereby all cause for controversy between Wisconsin and the sovereignties on her borders, and with the national government, may cease, and she be admitted into the Union

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with that portion of her territory which has not been granted to other powers, upon an equal footing with the original states.” Then comes this warlike sentence:

“Should congress, however, turn a deaf ear to our claims upon their justice or refuse to atone for the wrongs they have done us, we ask them, before doing so, to reflect upon what they may reasonably imagine will be the consequences, and to know, as they well may, that Wisconsin will never peaceably submit to so gross a violation of her rights, and that, after she has done all to obtain a peaceable redress of her wrongs which reason demands, and shall have failed, she will resort to every other means in her power to protect and preserve her rights, and that she will never lose sight of the principle that, whatever may be the sacrifice, THE INTEGRITY OF HER BOUNDARIES MUST BE OBSERVED.”

The report closes with a “call” on congress to “do justice, while yet it is not too late, to a people who have hitherto been weak and unprotected, but who are rapidly rising to giant greatness, and who, at no distant day, will show to the world that they lack neither the disposition nor the ability to protect themselves.”

The address seems, very naturally, to have created no small disturbance in the territorial legislature, and some rather bitter speeches were made both in its advocacy and its denunciation; while proffered amendments fairly showered in, the most significant coming from Benjamin Hunkins of Milwaukee, who suggested that the bristling document should be entitled: “A declaration of war against Great Britain, Illinois, Michigan and the United States.”

Mr. Hunkins appears to have been in earnest over his proposed fire-eating amendment, for a few days afterward we find him offering still another, to the effect that the memorialists “hereby proclaim to the Union that they will never abandon their claim to that part of the state of Michigan formerly detached from this Territory and annexed to that state, but will maintain it to the death!” This amendment, like all the others, was negatived.

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The address was finally adopted in the house, January 24, 1844, after protracted filibustering, by the close vote of fourteen to twelve. In the council it was concurred in, three days later, without division. On the 18th of March it was formally laid before the United States senate.

It is, perhaps, needless to add that congress paid no attention to so belligerent a communication, and Wisconsin, with all her war talk, regained none of the territory which had been taken from her; nor, until long after, any of the internal improvements which she had so imperiously demanded.

The act of August 6, 1846, enabling the people of Wisconsin to form a state constitution, established the following northeast boundary: "Through Lake Michigan, Green bay, to the mouth of Menomonee river; thence up the channel of 484 the said river to the Brulé river; thence up said last mentioned river to Lake Brulé; thence along the southern shore of Lake Brulé in a direct line to the center of the channel between Middle and South islands, in the Lake of the Desert; thence in a direct line to the headwaters of the Montreal river, as marked upon the survey made by Captain Cram; thence down the main channel of the Montreal river to the middle of Lake Superior; thence," etc.

This description, which is the existing one, while it embodies some of the suggestions made by Captain Cram, is nevertheless faulty in several particulars—it fails to specify which channels of the Menomonee, Brulé and Montreal rivers are the ones intended, for there are more than one in each river; in all three streams there are numerous islands: in the Menomonee alone there being, Captain Cram reports, three hundred and eighteen, "of which some are over one mile in length and from one-eighth to one-fourth of a mile in breadth, and covered with excellent pine." Questions of state jurisdiction over these islands might readily occur, in cases of crime or tax disputes, when the country becomes thickly settled. Then again, the "southern shore of Lake Brulé" is indefinite, and leaves it in doubt whether Michigan has jurisdiction over the entire lake to the line of high-water on the southern beach, or whether Wisconsin might not claim, at least, a narrow strip

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of water along the shore. "Through Green bay" is ambiguous, but probably the courts would construe it as meaning through the geographical center of the bay. Captain Cram's proposed detail description would have equitably divided the islands between the states and left no room for future legal wrangling over the intent of the act.¹

¹ The Michigan constitution, while aiming to be more explicit, yet is sufficiently ambiguous, on account of the specification of the "main channel" in the rivers named, and of the "most usual ship channel of the Green bay." The Michigan description is as follows: "Thence [from a point where the international boundary last touches Lake Superior] in a direct line through Lake Superior to the mouth of the Montreal river; thence through the middle of the main channel of the said river Montreal to the headwaters thereof; thence in a 'direct line to the center of the channel between Middle and South islands, in the Lake of the Desert; thence in a direct line to the southern shore of Lake Brulé; thence along said southern shore and down the river Brulé to the main channel of the Menominee river; thence down the center of the main channel of the same to the center of the most usual ship channel of the Green bay of Lake Michigan; thence through the center of the most usual ship channel of the said bay to the middle of Lake Michigan; thence," etc.

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In the constitutional convention held in Madison in 1846, it was attempted by some pugnacious members, remembering the squabble of earlier years, to place a proviso in the constitution, to the effect that Wisconsin would enter the Union on condition that she was "restored to her ancient boundaries." But the effort failed, as did, for some inexplicable reason, the following amendment, offered by John Crawford of Milwaukee, seeking to practically adopt Captain Cram's suggestions relative to the river islands: "Be it further ordained, that to prevent all disputes in reference to the jurisdiction of islands in the said Brulé and Menominee rivers, the line may be so run as to include within the jurisdiction of Michigan, all the islands in the Brulé and Menominee rivers (to the extent in which said rivers are adopted as a boundary) down to and inclusive of Quinisec falls of the Menominee; and from thence the line may be so run as to include within the jurisdiction

of Wisconsin, all the islands in the Menominee river, from the falls aforesaid, down to the junction of said river with Green bay.”

Finally, the northeast boundary clause was adopted by the convention in the language of the enabling act. This constitution was rejected by the people, for various reasons connected with the boundary dispute, and a second convention was called, which met in the winter of 1847–48. In this convention John H. Rountree of Grant county endeavored to work in the “ancient boundary” proviso, but without success; and the description of the northeast boundary as given in the enabling act and in the rejected constitution was engrafted upon the new document. This constitution was ratified by the people, and Wisconsin entered the Union in 1848, with Preston's line separating her from the northern peninsula of Michigan.

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THE NORTHWESTERN BOUNDARY.

The western boundary of the Northwest Territory was the Mississippi river. Afterwards, when the trans-Mississippi country, westward to the Missouri and the White Earth, was added to Michigan Territory and retained by Wisconsin Territory, it was understood that it was merely for purposes of temporary government. Wisconsin never laid claim to any of this tract, but did insist on having as its western limit the Mississippi river to its source, and thence north to the international boundary, as prescribed by the ordinance of 1787. Had the territorial legislators of 1844 had the faintest idea that Wisconsin was to be still further reduced by taking from it the tract of country between the St. Croix and the upper Mississippi, and attaching the same to a new “sovereignty,” then unborn, there is no doubt that their famous address to congress would have not merely breathed threats, but have been a notice of nullification itself.

It was not until 1846 that the northwestern boundary question arose. On the 14th of January that year, Morgan L. Martin, Wisconsin's delegate in congress, introduced in the

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house a bill to enable his constituents to form a constitution and a state government. This bill claimed the “ancient boundaries.” May 11, Stephen A. Douglas of Illinois reported, as chairman of the committee on territories, an amendatory bill which cut the proposed new state down to its present boundaries, the clause relating to the northwest limit being: “Through the center of Lake Superior to the mouth of the St. Louis river; thence up the main channel of the said river to the first rapids in the same, above the Indian village according to Nicollet’s map;¹ thence due south to the main branch of the river St. Croix; thence down the main channel of said river to the Mississippi; thence,” etc.

1 For the map of and elaborate historical and scientific report on the upper Mississippi basin, made by Jean N. Nicollet, see *Senate Docs.*, No, 287, 26th Cong., 2nd sess.

Later, Mr. Martin secured the adoption of this important proviso in the substitute bill: “*Provided*, That the convention 487 which may assemble to form a constitution for said state shall be at liberty to adopt such northern and western boundaries, *in lieu of those herein prescribed*, as may be deemed expedient, not exceeding, however, the present limits of the said Territory.”

In this form the bill was passed the 9th of June, but on the following day the vote was reconsidered, and an animated debate sprung up over the proviso.¹ Mr. Douglas explained that his object in introducing the new northwest boundary line was, that it would then leave “as much of the old Northwest Territory out of Wisconsin as in it, so as to form a new state equal to it in size.” Allen G. Thurman of Ohio said this proviso would enable Wisconsin to form a state with sixty-eight thousand square miles, which he deemed a preposterous size. “We had enough,” he said, “of the Northwest Territory still left, unenclosed, to form two good states; or if it was not quite enough for that purpose, it would be easy to add a little territory on the west bank of the Mississippi;” but this proviso would “enable Wisconsin to so cut up She choicest land, to suit herself, that there would not be enough left together to form any other state.” John A. Rockwell of Connecticut thought the “assigning to these new states territories disproportionately large, would be eminently

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injurious both to them and to the Union at large.” Samuel F. Vinton of Ohio said that by the treaty with Great Britain of 1783, the western boundary of the United States was to commence at the Lake of the Woods and run thence by straight line to the source of the Mississippi, and then down that river—and such was understood by those who originally drafted this bill to be the present western boundary of Wisconsin; but Nicollet's map, which had heretofore been relied on by the house committee on territories, fell two degrees short of extending to the Lake of the Woods; by comparing the act which created the Territory of Wisconsin with Tanner's and Melish's maps, he found that “a line drawn from the source of the Mississippi due north to the latitude of 49° [the boundary of the United States] would pass eighty miles west of the Lake of

1 *Cong. Globe*, 1846, p. 952.

488 the Woods,¹ and would include a considerable portion of what we purchased in the Territory of Louisiana; so that, in any way in which the language of the act could be carried out, Wisconsin would have for her western boundary a line of at least one thousand miles in length;” and Mr. Vinton thus showed that, “according to the phraseology of the proviso, Wisconsin would embrace not only all the residue of the old Northwest Territory, but a great deal more.” And so the proviso was killed. The Douglas bill then passed the house, and subsequently the senate, the enabling act being approved on the 6th of August following.

1 The map issued by the general land office at Washington, in 1885, shows that Lake Itasca is exactly on the meridian which touches the extreme northwest corner of the Lake of the Woods.

In the constitutional convention which opened in Madison, October 5, 1846, ex-Governor Doty, who had been so prominent in insisting upon the “ancient limits” of Wisconsin, was made chairman of the committee on boundaries and name. The committee very naturally reported an ordinance insisting on the “birthright” of the proposed state and that all boundary questions in dispute should be referred to the supreme court of the United

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States. It soon developed in the convention that the people in the St. Croix valley, who had settlements at St. Anthony's Falls, Fort Snelling, Stillwater and other points, were extremely desirous of casting loose from Wisconsin and embarking their fortunes with the proposed Territory of Minnesota, beyond the Mississippi. They claimed that they were far removed from southern and eastern Wisconsin, the centers of population west of Lake Michigan, and had neither social nor commercial interests in common with the latter. Of course there was political ambition also, at the bottom of this desire, and it had been fostered by the proceedings in congress, above reported. William Holcomb of St. Croix county came down to the convention as the representative of this idea, and fought for separation with much persistence and parliamentary skill. The provisions of the enabling act did not go far enough to suit him. He sought to have a line drawn from the headwaters of the Montreal river to Mountain 489 island,¹ on the Mississippi river; the design being, to erect the country north of that line and west of the Mississippi—with the whole of the northern peninsula, if it could be obtained—into a state to be called Superior, commanding the southern and western shores of Lake Superior with the mouth of Green bay and the foot of Lake Michigan to the southeast. It was a bold scheme and had the merit of originality.

1 The Mont Trempealeau of to-day.

His first amendment to the boundary article was as follows: "Commencing at the headwaters of the Montreal river, as marked by Captain Cram, thence southwest to a point a half degree due north to the highest peak on Mountain island, on the Mississippi river; thence due south over said Mountain island to the center of the channel of the Mississippi river." This was voted down, fifty-one to twenty-nine. Filibustering ensued; and later, the same day, on motion of Mr. Strong of Iowa county an amendment to the same effect as Holcomb's was adopted, forty-nine to thirty-seven. The next day, however, the vote was reconsidered, and, after several calls of the house, the amendment negatived, sixty-eight to thirty-five.

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After numerous amendments had been defeated, through a skirmish lasting some weeks, all of them closely allied in phraseology to the original article in the enabling act, Mr. Holcomb secured the adoption—ayes forty-nine, nays thirty-eight—of the following proviso, which was attached to the constitution as it went from the convention: “ *Provided* , however, that the following alteration of the aforesaid boundary be and hereby is proposed to the congress of the United States, as the preference of the state of Wisconsin; and if the same shall be assented to and agreed to by the congress of the United States, then the same shall be and forever remain obligatory on the state of Wisconsin, viz.: Leaving the aforesaid boundary line at the first rapids in the river St. Louis; thence in a direct line southwardly to a point fifteen miles east of the most easterly point in Lake St. Croix; thence due south to the main channel of the Mississippi river on Lake Pepin; thence down the said main 490 channel of Lake Pepin and the Mississippi river, as prescribed in the aforesaid boundary.”

On the 3rd of March, 1847, congress passed an act giving Wisconsin permission to change her northwestern boundary in accordance with the above proviso. But at an election on the first Tuesday in April the people rejected the constitution, and the boundary proposition thus fell to the ground with it. Had the constitution been accepted by popular vote, nearly the entire basin of the St. Croix river with its many thrifty towns and broad, fertile prairies, would have been lost to Wisconsin—the boundary sought being a continuation southward to the Mississippi, of the straight line that now runs only from the St. Louis to the St. Croix.

A second constitutional convention assembled at Madison on the 15th of December, 1847. Byron Kilbourn of Milwaukee, from the committee on general provisions, reported, December 23, a boundary article which accepted the conditions of the enabling act, but with this proviso: “ *Provided* , however, that the following alteration of the aforesaid boundary be and hereby is proposed to the congress of the United States, as the preference of the state of Wisconsin; and if the same shall be assented and agreed to by

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the congress of the United States, then the same shall be and forever remain obligatory on the state of Wisconsin, viz.: Leaving the aforesaid boundary line at the foot of the rapids of the St. Louis river; thence in a direct line, bearing southwesterly to the mouth of Rum river, where the same empties into the Mississippi river;¹ thence down the main channel of the Mississippi river, as prescribed in the aforesaid boundary.”

1 The Rum empties into the Mississippi at Anoka, about twenty-five miles up river, from St. Paul.

This amendment, which was bitterly antagonized by the St. Croix-valley people, sought to secure to Wisconsin a large tract which embraces the whole of what are now the Minnesota counties of Washington and Ramsey, and considerable portions of Anoka, Isanti, Chisago, Pine and Carlton, with, of course, what is now the city of St. Paul.

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George W. Brownell of St. Croix occupied the same position in this convention that Mr. Holcomb had in the previous body. On the 7th of January he introduced an amendment which was essentially the same as that for which his predecessor originally fought—a straight line from the headwaters of the Montreal to a point in the Mississippi “a half degree due north of Mountain island.” In submitting this amendment, Mr. Brownell spoke at length¹ in its advocacy; he said that his proposal equitably divided the territory into two parts, according to the spirit of Mr. Douglas's proposition in congress, and “conformed to a natural geographical division;” that the people of the proposed new state along Lake Superior were severed from the settled portions of Wisconsin by “a wide, uninteresting and unsettled region of country of some one hundred and fifty miles, which forms a reasonable barrier to a connection;” the settlements on the Black and Chipewewa rivers and on Lake Superior, he said, were without any civil officers; they were distant and neglected. Finally, as a clincher, he represented that the region he spoke for was a low and fiat country, of no particular use to Wisconsin; it was “characterized for its pine barrens, lakes, tamarack swamps and marshes,” and “would not pay the expense of surveying,

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for ages to come”—all of which reads strangely at this day, with an interval of barely forty years, to one acquainted with the development and possibilities of the marvelously rich agricultural, manufacturing, lumbering and mining regions of northern Wisconsin. Mr. Brownell said the people of that country had different pursuits, interests and feelings from the body of Wisconsin settlers, and their progress would be “greatly hampered by being connected politically with a country from which they are separated by nature—cut off from communication by immense spaces of wilderness between;” this was before the day of railroad facilities, which easily conquer such “spaces of wilderness” and cause them to resound with the hum of industry and to “blossom as the rose.” Mr. Brownell won to his side several members

1 *Jour. Wis. Const. Conv.*, 1847–48, p. 241.

492 from the south, who were touched by his earnest appeals and thought Wisconsin would have an abundance of land left, after allowing the St. Croix valley to be taken out of the state. But the majority were against the project and voted down the amendments as fast as Brownell and his friends would offer them. Even the proviso of the previous convention was promptly defeated, and the Rum-river proviso finally passed, forty-six to twelve.

The convention adjourned on the 1st of February, 1848, and the constitution was forwarded to congress for approval. The boundary proviso which it contained, at once raised a storm among the people in the St. Croix valley and about Fort Snelling, who wanted to be included in Minnesota. They accordingly united in a memorial to congress protesting against the Rum-river proposition, which memorial was presented on the 28th of March.¹ The petitioners—among whom were H. H. Sibley, Henry M. Rice, Franklin Steele, William R. Marshall² and others who afterwards became prominent in Minnesota affairs—wrote:

1 Neill's *Minnesota* (ed, 1882), p. 489.

2 See Marshall's reminiscences of this boundary dispute, in *Mag. West. Hist.*, vii., pp. 248—250.

“Your memorialists conceive it to be the intention of your honorable bodies so to divide the present Territory of Wisconsin as to form two states nearly equal in size, as well as other respects. A line drawn due south from Shagwamigan [Chequamegon] bay, on Lake Superior, to the intersection of the main Chippeway river, and from thence down the middle of said stream to its *debouchure* into the Mississippi, would seem to your memorialists a very proper and equitable division, which, while it would secure to Wisconsin a portion of the Lake Superior shore, would also afford to Minnesota some countervailing advantages. But if the northern line should be changed, as suggested by the convention, Minnesota would not have a single point on the Mississippi below the falls of St. Anthony, which is the limit of steam-boat navigation. This alone, to the apprehension of your memorialists, would be a good and sufficient reason why the mouth of Rum river should not be the 493 boundary, as that stream pours its waters into the Mississippi twenty miles above the falls. Besides this, the Chippeway and St. Croix valleys are closely connected in geographical position with the upper Mississippi, while they are widely separated from the settled parts of Wisconsin, not only by hundreds of miles of mostly waste and barren lands, which must remain uncultivated for ages, but equally so by a diversity of interests and character in the population.”

Moved by the arguments of these memorialists, and also by some active lobbying in Washington, congress declined to consent to the Rum-river proviso; and the act of May 29, 1848, admitting Wisconsin to the Union, recognized only such boundaries as were specified in the enabling act of 1846.

In 1852 the general government employed George R. Stuntz to run and mark the land line from “the first rapids in St. Louis river, above the Indian village, according to Nicollet's map, thence due south to the main branch of the river St. Croix.” He performed the task with the aid of nine men, between October 20 and November 18.¹ The site of Nicollet's

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Indian village is known as Fond du Lac, being on the north side of the river St. Louis, and eighteen miles from Lake Superior. It is at the point where the waters of the lake ordinarily meet, in a narrow bay, those of the river. The point of juncture, however, varies with the height of the water-level in the lake—in some years and in some seasons receding, while advancing in others. When Mr. Stuntz arrived, he was assured by the Chippewa chief at Fond du Lac that the first rapids of the river were opposite a trading warehouse at his village. But the water being high, no rapids were visible at this place. Whereupon, the surveyor proceeded up stream to a point where he was no longer able to propel his canoe with a single paddle, against the rushing current. Here, where the river runs due south for a few rods, he decided the “first rapids” to be; and on a high bluff, a quarter of a mile due south of this, he set his first post in the boundary. His plan of establishing the location

1 *Wis. Jour. of Educ.*, ii., p. 282.

494 of the first rapids was accepted by the topographical bureau; and thus Wisconsin gained, by the high water which chanced to prevail at the Fond du Lac that October day, thirty-six years ago, a ribbon of dense pine forest forty-two miles long by about half a mile broad.

THE SOUTHERN BOUNDARY.

Article V. of the ordinance of 1787, after providing for the eventual erection of three states out of the Northwest Territory, further specified: “That if congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said Territory which lies north of an east and west line drawn through the southerly bend of Lake Michigan.”

Thus the southern boundaries of Michigan and Wisconsin, the fourth and fifth states that were to be, were established by the ordinance on this line,—41° 37' 07.9", according to Talcott's survey. This compact was to “forever remain unalterable except by common consent.” We have shown how Michigan was deprived of her birthright, though for a

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compensation and after an enforced consent. It remains to be seen how Wisconsin lost a strip of her southern border ten times as wide, without compensation and without consent of the people settled within the limits assigned by the ordinance of 1787, and confirmed by the act of 1805, to the fifth northwestern state.

In 1818 Illinois, the third state, applied for entry to the Union. The original bill for the purpose, as introduced by Nathaniel Pope, the delegate from Illinois, provided for the northern boundary prescribed by the ordinance. But, while his measure was still pending, he appears to have suddenly bethought himself of the advantages of giving to his state a share of the lake coast, and proposed an amendment making the latitude of 42° 30' its northern limits. This was a bold move, for the additional strip of territory sought to be thus obtained for Illinois was 61 miles, 19 chains and 13 495 links in width, embracing a surface of 8,500 square miles¹ of exceedingly fertile soil, and numerous river and lake ports, many miles of fine water-power, and the sites of Chicago, Rockford, Freeport, Galena, Oregon, Dixon and numerous other prosperous cities.

¹ Appendix to *Council Jour., Wis. Terr. Legis.*, 1844, p. 8. By the terms of the treaty at St. Louis, August 24, 1816, between the United States and the Ottawas, Chippewas and Pottawatamies, it became necessary to establish the point where a line "due west from the southern extremity of Lake Michigan" would strike the Mississippi. The line was surveyed by John Sullivan in 1818. He erected a monument at its terminus, "on the bank of the Mississippi near the head of Rock island." This was said to be still visible about the year 1840. In 1833 Captain Talcott, while upon the Ohio-Michigan boundary survey, had been instructed, under act of July 14, 1832, to "ascertain the point on the Mississippi river which is due west from the southerly extreme of Lake Michigan." He established this point as being "about seven miles north of the fort on Rock island," and erected several monuments there and on the line east of that to the southern extremity of the lake.

Mr. Pope, in advocacy of his amendment, said² that his chief purpose was to gain for the new state a coast on Lake Michigan, and lake communication with Indiana, Ohio,

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Pennsylvania and New York, thereby “affording additional security to the perpetuity of the Union.” Illinois, he said, had practical control, along her southern and western borders, of the Wabash, Ohio and Mississippi rivers, all of which flowed south; she was the key to the west; in the event of a disruption of the Union, it would be important that Illinois should be so balanced as to have no great leaning to any particular confederacy. If left entirely upon the waters of the great southern-flowing rivers, it was plain, Judge Pope argued, that “in case of national disruption the interest of the state would be to join a southern and western confederacy. But if a large portion of it could be made dependent upon the commerce and navigation of the northern lakes, connected as they were with the eastern states, a rival interest would be created, to check the wish for a western or southern confederacy. Her interest would thus be balanced and her inclination turned to the north.”

2 Ford's *Hist. of Ill.*, p. 22; Davidson and Struve's *Hist. of Ill.*, p. 295; *Annals of Congress* (1818), ii., p. 1677.

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The amendment was agreed to in the house, without division, April 4, 1818, and the enabling act approved two weeks later. It contained no provision for the obtaining of permission from the people living north of 43° 30' and west of Lake Michigan; whereas the act enabling Indiana to form a state constitution, two years before, required the people interested to ratify the boundary change; and in later years, as we have seen, Michigan's consent was required before Ohio's claim could be allowed.

The act of 1836, erecting Wisconsin Territory, recognized the Illinois-Wisconsin border at 42° 30', as in the Illinois enabling act of 1818. And there the matter rested until the 22nd of December, 1838, when Governor Dodge approved a memorial to congress adopted by the territorial legislature of Wisconsin, wherein it was represented to congress that the act of 1818, fixing Illinois's northern boundary, came “directly in collision with, and [was] repugnant to, the compact entered into by the original states, with people and states within this Northwestern Territory,” and praying that, as a measure of justice, “the southern

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boundary of [Wisconsin] Territory may be so far altered as to include all the country lying north of a line drawn due west from the southern extreme of Lake Michigan.” This memorial was presented to the senate January 28, 1839,¹ and conveniently pigeon-holed by the judiciary committee.

1 *Senate Docs.*, No. 149, 25th Cong., 3rd sess., vol. iii.

Wisconsin renewed the attack on the 31st of December, 1839, when a select council committee of the territorial legislature of Wisconsin reported resolutions² declaring that in the matter of the southern border, the ordinance of 1787 had been violated by congress, and that “a large and valuable tract of country is now held by the state of Illinois, contrary to the manifest right and consent of the people of this territory.” The resolutions requested that on the next general election day, the fourth Monday in September, the inhabitants of the territory vote upon the question of forming a state constitution, and that the people living in the district in northern Illinois, which was claimed

2 *House Jour., Wis. Terr. Legis.*, 1844, p. 14

497 by Wisconsin, be invited upon that day to express their opinion on the matter; and, in case a constitutional convention should be called, that the people in the disputed tract send delegates thereto. These resolutions were adopted by the legislature, and on the 13th of January were approved by Governor Dodge.

The passage of these resolutions gave rise to a decided uproar among the settlements in Wisconsin and northern Illinois. Public meetings were held at Galena, Rockford and Belvidere—Illinois towns in the disputed strip—and resolutions were adopted, declaring in favor of the Wisconsin claim.¹ These culminated in a convention at Rockford, July 6, in which Jo Daviess, Stephenson, Winnebago, Boone, 32

1 It will be seen by Editor Warren's letter to Governor Edwards, *ante*, p. 465, note, that as early as 1829 Judge Dory had worked up a strong popular sentiment in northern Illinois, in favor of the Wisconsin claim. May 25, 1840, there was presented to the United

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States senate a petition signed by sixty-two citizens of Stephenson county, asking that "Wiskonsin" be given those "ancient rights secured to them by the ordinance [of 1787] aforesaid," by the "repeal of so much of the act for the admission of Illinois as conflicts with the ordinance before referred to."—(*Senate Docs.*, No. 225, 26th Cong., 1st sess., vol. vi.) On the same day, the senate received the proceedings of a meeting "of the citizens of Galena and vicinity," held at Galena, May 7, 1840.—(*Ibid.*, Doc. No. 226.) It appears therefrom that a preliminary meeting had been held at the Galena court-house, February 1, Thomas Melvill being appointed chairman of a committee on correspondence, to ascertain the views held on the boundary dispute by the people of northern Illinois. May 1, another meeting was held, and Charles S. Hempstead was appointed to draw up a report, which was laid before the meeting of May 7. This report went over the ground quite thoroughly, from a historical point of view. The report of the committee on correspondence, also submitted, stated that it has been discovered "that an opinion is generally entertained by the inhabitants of these portions of the [disputed] district, that the territory in dispute rightfully belongs to Wiskonsin, according to the compact; that it is for the general welfare to be detached from the former [Illinois], and annexed to the latter [Wiskonsin]." The meeting thereupon adopted a series of resolutions demanding the admission of Wisconsin to the Union, with the territory in dispute, and inviting the people in each county in northern Illinois to send delegates to a convention to be held at Rockford the first Monday in July following. A committee headed by John Stark was "appointed to address a circular letter to all parts of said tract of country," advising the endorsement of the Wisconsin claim.

498 McHenry, Ogle, Carroll, Whitesides and Rock Island counties were represented. The convention formally declared that Wisconsin was entitled to the fourteen northern counties of Illinois, as claimed, and the citizens were recommended to elect delegates to a convention to be held at Madison, on the third Monday in November, "for the purpose of adopting such lawful and constitutional measures as may seem to be necessary and proper for the early adjustment of the southern boundary." But in Wisconsin Territory itself, popular sentiment seemed generally against this movement; and at a public meeting held in Green Bay, April 24, 1840, it was voted that the people of that section "viewed

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the resolutions of the legislature with concern and regret,” and the members thereof were requested to rescind them.¹ When the returns from the election were canvassed, it was found that the vote was light and almost wholly against state government.

¹ The objection, however, was laid more against the premature attempt to form a state government, than against the boundary claim.

During the legislative session of 1841, the question of forming a state government was not agitated, while an attempt to revive the southern boundary question, in the form of a memorial to congress, was promptly tabled, sixteen to nine, and not revived.

Mr. Doty became the chief executive in October, 1841. During the previous congress he had, as territorial delegate, attempted to secure consideration for a bill changing the southern boundary of Wisconsin, but was defeated by Illinois tactics and could not even get it presented. He was extremely enthusiastic in the advocacy of Wisconsin's “ancient limits.” His first message to the legislature, December 10, was outspoken in advocacy of a state government, saying that “if the district of country now under the jurisdiction of Illinois should sustain her claim, to be made a part of the state of Wisconsin,” then there would be one hundred thousand people in the territory, whereas the ordinance of 1787 required but sixty thousand for the purpose of state formation.

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In the legislative council the committee on territorial affairs reported, February 8, 1842, that Wisconsin surely had the right to claim admission, with her southern border on the line drawn due west from the southern bend of Lake Michigan, but expressed some doubt as to the expediency of demanding that right. However, they reported a bill referring the question of state government to the people at the next election, and a resolution inviting the inhabitants of the disputed tract to hold an election at the same time on the question of uniting with Wisconsin in forming such state government.

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D.A.J. Upham of Milwaukee, one of the committee, was of a belligerent spirit. In a speech stoutly asserting the right of Wisconsin to assume jurisdiction over northern Illinois, he said: "Let us maintain that right at all hazards—unite in convention, form a state constitution, extend our jurisdiction over the disputed tract, if desired by the inhabitants there, and then, with legal right and immutable justice on our side, the moral and physical force of Illinois, of the whole Union, cannot make us retrace our steps."

In the house, the territorial affairs committee reported against any present attempt towards statehood. The legislature took no action on either report.

As the result of a meeting of the citizens of Stephenson county, Illinois, February 19, an election was actually held throughout the disputed tract, on the 5th of March, at which, of five hundred and seventy votes cast, all but one were in favor of uniting with Wisconsin. June 28, Governor Doty officially informed the governor of Illinois that the fourteen northern counties of the latter state were within the limits of the fifth of the Northwestern states established by the ordinance of 1787, and not, therefore, within the constitutional boundaries of the state of Illinois. He told his correspondent that the district in question was one over which Illinois was "exercising an accidental and temporary jurisdiction." The object of Governor Doty, in this letter, was to protest against the action of the commissioners appointed to locate the lands granted by the United States to Illinois, in making their selections chiefly within the Wisconsin 500 claim. At the general election in August, in Boone county, Illinois, the question of attachment to Wisconsin came up, with the result that of four hundred and ninety-six votes all but one were in the affirmative.

August 13 Governor Doty issued a proclamation, on his own responsibility, calling on all the people within the "ancient limits of Wisconsin," to vote, the fourth Monday in September, on the question of forming a state government. In the recognized limits of the Territory, however, but a small proportion of the inhabitants paid any attention to the proclamation, and of those three-fourths were against the proposition.

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Not at all abashed by the manner in which his proclamation had been ignored, the governor again solicited the legislature to call for a popular vote on the constitution question; with, of course, an invitation to the people of northern Illinois to join. But the legislature declined and the governor, again of his own motion, issued another proclamation—August 23, 1843—of the same import as that of the previous year. Less attention was paid to the matter, however, than in 1842, only one-eighth of the citizens caring to record their sentiments and nearly all of those voting “nay.”

December 4, 1843, in a message covering all of the boundary troubles, Governor Doty once more called legislative attention to the claim of Wisconsin to the sixty-one-mile-wide strip through northern Illinois. The special committee to whom the matter was referred found, among other things, that congress had, in fixing the northern boundary of Illinois at 42° 30', violated the compact of 1787. The report of the committee on this branch of the subject is elaborate and convincing.

The warlike address to congress accompanying the report, both of which were adopted, contains this phrase: “Had we formed a constitution and state government, and extended our jurisdiction over all the territory appropriated by the ordinance to the fifth state, though it might have involved us in a conflict with Illinois * * * no one could truly say we had done more than exercise our lawful rights in a lawful manner.”

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But, as we have already seen, this pugnacious address to congress met with no response from that body, and nothing more was officially heard of Wisconsin's claim to the fourteen northern counties of Illinois until the enabling act of 1846, which confirmed the line of 42° 30'. In the first state constitutional convention which met in October, at Madison, there was a strong attempt to secure the introduction of a clause in the constitution referring all boundary disputes to the supreme court of the United States—Wisconsin to be meanwhile admitted with indefinite boundaries. But this failed—owing, in part, it is said, to the jealousy entertained by Wisconsin politicians of those in northern Illinois, whom they did not care

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to meet in competition for office—and the constitution-makers accepted the southern boundary that congress had established. In the second constitutional convention, the same result was harmoniously attained. And Wisconsin became a state, in 1848, stripped by the youthful greed of her southern neighbor and political manoeuvring in congress, of 8,500 square miles of the richest and most populous territory in the entire Northwest.¹

¹ Since the above article was written I have been in correspondence with Prof. John E. Davies of the United States coast and geodetic survey, who has spent much time in triangulation work in Wisconsin. In answer to a question as to whether the existing boundary posts between Illinois and Wisconsin are correctly located, Professor Davies writes: "The line as it is, does not represent the parallel of 42deg; 30#, as the constitution of each state prescribes. It zigzags to and fro, having been made by a surveyor's compass, apparently in the hands of Mr. Lucius Lyon, United States commissioner. The line should go further south than it now is—about three-fourths of a mile in the western part of Wisconsin, and further north in and east of Beloit."